

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3027-05
Bill No.: Perfected HCS for HB 1332
Subject: Health Care; Health Care Professionals; Pharmacy
Type: Original
Date: April 9, 2008

Bill Summary: This legislation establishes guidelines for an entity auditing a pharmacy.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(Unknown but Greater than \$36,810)	(Unknown but Greater than \$36,810)	(Unknown but Greater than \$36,810)
Total Estimated Net Effect on General Revenue Fund	(Unknown but Greater than \$36,810)	(Unknown but Greater than \$36,810)	(Unknown but Greater than \$36,810)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
State Board of Pharmacy Fund	(\$25,650)	(\$25,650)	(\$25,650)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$25,650)	(\$25,650)	(\$25,650)

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Federal*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

*Incomes and costs of unknown but greater than \$63,190 for FY09, FY10 and FY11 would net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services, Office of the State Public Defender, Office of the State Auditor** and the **Office of the State Courts Administrator** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Office of the Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

In response to a similar proposal from this year (HB 2240), officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Mental Health (DMH)** state although the DMH operates pharmacies it is not an entity that performs audits as described in this proposal. Therefore, this proposal would have no fiscal impact upon the Department.

The proposal also establishes requirements for communication by entities other than a primary health care provider to encourage patients/consumers to switch from their current medication to a different medication. It does not appear that the proposal would place any direct requirements or obligations on the DMH that would result in a direct fiscal impact.

ASSUMPTION (continued)

Officials from the **Department of Social Services** states the MO HealthNet Division (MHD) reviewed FN 3027-01N and stated there would be no fiscal impact to MHD. Since MHD is not a listed agency, the enumerated rights would not apply.

The Committee Substitute removes all references to a "bill of rights." This and other changes in the Committee Substitute do not change the fiscal impact to DSS, which remains zero.

Section 1 defines "switch communication" as a communication that recommends a patient's medication be switched to a different medication than originally prescribed. The definition also contemplates that the "switch communication" is a recommendation, not that the "switch" has been made.

The communication and administrative requirements would likely result in a cost to the managed care plans, which could in turn, result in a cost to the MHD because the managed care plans may pass the cost along to the state when they re-bid their contracts.

Due to time constraints it is unknown at this time whether the Medicaid, MO HealthNet Division (MHD) Fee for Service program is included or not included in this proposal. Therefore, the fiscal impact to fee-for-service is unknown.

The cost to the MHD would be unknown, but greater than \$100,000.

Oversight notes that states can earn the federal medical assistance percentage (FMAP) on Medicaid program expenditures. The Social Security Act requires the Secretary of Health and Human Services to calculate and publish the actual FMAP each year. The FMAP is calculated using economic indicators from state and the nation as a whole. Missouri's FMAP for FY09 is a 63.19% federal match. The state matching requirement is 36.81%.

Officials from the **Department of Insurance, Financial Institutions & Professional Registration (DIFP)** assume this proposal authorizes the Board of Pharmacy and other entities to conduct scheduled audits of licensed pharmacy records and establishes requirements of the auditor. DIFP assume there will be 171 cases requiring a scheduled audit each year with a cost of \$150. The total cost to the Board of Pharmacy is \$25,650 (171 X \$150).

FISCAL IMPACT - State Government

FY 2009
(10 Mo.)

FY 2010

FY 2011

GENERAL REVENUE FUND

Costs - Department of Social Services

Increase in Managed Care Contracts

(Unknown but
Greater than
\$36,810)

(Unknown but
Greater than
\$36,810)

(Unknown but
Greater than
\$36,810)

Increase in Fee-for-Service Costs

(Unknown)

(Unknown)

(Unknown)

Total Costs - DSS

(Unknown but
Greater than
\$36,810)

(Unknown but
Greater than
\$36,810)

(Unknown but
Greater than
\$36,810)

**ESTIMATED NET EFFECT ON
GENERAL REVENUE FUND**

(Unknown but
Greater than
\$36,810)

(Unknown but
Greater than
\$36,810)

(Unknown but
Greater than
\$36,810)

**STATE BOARD OF PHARMACY
FUND**

Costs - Department of Insurance,
Financial Institutions & Professional
Registration

Audit Costs

(\$25,650)

(\$25,650)

(\$25,650)

**ESTIMATED NET EFFECT ON
STATE BOARD OF PHARMACY
FUND**

(\$25,650)

(\$25,650)

(\$25,650)

FEDERAL FUNDS

Income - Department of Social Services Federal Assistance

Unknown but Greater than \$63,190	Unknown but Greater than \$63,190	Unknown but Greater than \$63,190
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Costs - Department of Social Services Increase in Managed Care Contracts

(Unknown but Greater than \$63,190)	(Unknown but Greater than \$63,190)	(Unknown but Greater than \$63,190)
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Increase in Fee-for-Service Costs

(Unknown)	(Unknown)	(Unknown)
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Total Costs - DSS

(Unknown but Greater than \$63,190)	(Unknown but Greater than \$63,190)	(Unknown but Greater than \$63,190)
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ESTIMATED NET EFFECT ON FEDERAL FUNDS

<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Local Government

FY 2009 (10 Mo.)	FY 2010	FY 2011
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<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

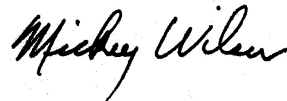
FISCAL DESCRIPTION

The proposed legislation establishes guidelines that any entity auditing a pharmacy must follow. Any entity conducting an audit must develop an appeals process under which a pharmacy can appeal an unfavorable audit report. The substitute does not apply to any investigative audits involving fraud, willful misrepresentation, or abuse.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Attorney General
Office of the State Courts Administrator
Department of Insurance, Financial Institutions & Professional Registration
Department of Mental Health
Department of Health and Senior Services
Department of Social Services
Office of the State Auditor
Office of the State Public Defender
Office of the Secretary of State



Mickey Wilson, CPA
Director
April 9, 2008